

Appl. No. : 09/836,855
Filed : April 16, 2001

REMARKS

Claims 1-11 were pending in this application. Claim 3 has been amended to correct a typographical error with the deletion shown in bolded, bracketed, struck-through text. Accordingly, Claims 1-11 remain pending for consideration.

Rejection Of Claims 1-11 Under 35 U.S.C. § 103

The Office Action rejected Claims 1-11 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,658,389, issued to Alpdemir (the Alpdemir patent) in view of U.S. Patent No. 4,388,689, issued to Haman et al. (the Hayman patent). The Examiner asserted that Alpdemir teaches a speech-interactive information system including a speech-to-text conversion, a database, a database search engine, a text-to-speech conversion engine, and a speech server for communicating the speech-based representation of data. The Examiner also asserted that Hayman teaches a restaurant video display system including the routing of food orders from a POS to a food preparer station. Applicants respectfully traverse this rejection on the basis that no motivation exists to combine the references together.

Section 2143.01 of the M.P.E.P. states that “[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.”

The Examiner acknowledged that Alpdemir fails to teach a point-of-sales register in a restaurant used by food preparers. In fact, the Alpdemir patent has no relation to the field of restaurant services. The Alpdemir patent rather relates to a business system that allows customers to telephone an internet database and receive audible information acquired from a search of the database. There simply is no suggestion in the Alpdemir patent to modify its system in a manner where a POS register is used to input data into the database.

Hayman also fails to provide any motivation or suggestion to combine the references. Hayman discloses a video display system for use in a restaurant for keeping track of order preparation and completion. Hayman does not suggest the substitution of the video display system with audio communications for improved efficiency.

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Neither the Alpdemir nor Hayman provides the requisite suggestion to use a speech synthesizer system of Alpdemir in place of the video displays in Hayman to more efficiently process restaurant orders. The only suggestions to do so comes from Applicants' teaching, which the Examiner has improperly used as a predicate for the rejection.

It thus appears that the Examiner has impermissibly used hindsight derived from the teachings in the present application, and not the teachings of the prior art, to provide a motivation to combine the references together and reject Claims 1-11. Such usage is improper. In re Dembicza, 175 F.3d 994, 999 (Fed. Cir. 1999) (holding the Board impermissibly used hindsight in determining obviousness); See also, M.P.E.P., Sect. 2145, part X.A. A determination of obviousness cannot simply rely on the inventor's disclosure as a "blueprint" without evidence of a suggestion, teaching or motivation in the prior art. "The teaching and suggestion to make the claimed combination and the reasonable expectation for success must both be found in the prior art and not based on the Applicant's disclosure"(emphasis added). M.P.E.P. Section 706.02(j).

The Applicant therefore respectfully submits that Claims 1-11 are patentably distinguished over the cited references and the Applicant respectfully requests allowance of Claims 1-11.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. For the sake of brevity, Applicants have not challenged in this response whether the Alpdemir reference is analogous art to Applicants' field of invention; however, Applicants respectfully reserve the right to do so in later filings.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

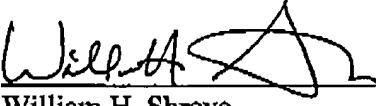
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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